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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:17CR341
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>SUPERSEDING</u>
)	<u>INDICTMENT</u>
ROBERT ROCHE,)	
)	
Defendant.)	Title 18, United States Code,
)	Sections 371, 666(a)(1)(A) and 2

The Grand Jury charges:

COUNT 1

(Conspiracy to Commit Theft Concerning Program Receiving Federal Funds, 18 U.S.C. § 371)

General Allegations

1. At all times material herein, ROBERT ROCHE ("ROCHE") served as an agent of the American Indian Education Center ("AIEC") in his position as AIEC's Executive Director. The AIEC conducted its activities, which focused on supporting Native Americans causes, in the Northern District of Ohio, Eastern Division. The AIEC was organized under the laws of the State of Ohio as a non-profit corporation on January 12, 1995.

2. At all times material herein, Craig McGuire ("McGuire"), not charged herein, operated his own company known as McGuire & Associates, L.L.C. ("McGuire & Associates"), for the purpose of writing applications for grants and providing evaluation services paid with funds derived from a grant. Title 45 of the Code of Federal Regulations, § 74.43, governing Federal Procurement Standards, prohibited McGuire and McGuire & Associates, as a grant

writer, from receiving compensation arising from a grant for evaluation and other professional services.

3. At all times material herein, the Substance Abuse and Mental Health Services Administration ("SAMHSA"), a component of the United States Department of Health and Human Services, was a Federally funded agency charged with providing programs and services to individuals suffering or at risk for addictive and mental disorders.

4. In early 2011, SAMHSA announced a grant titled "Circles of Care" offered through its Center for Mental Health Services to provide Native American communities with the tools and resources to design programs to support mental health and wellness for children and families. Applications for the "Circles of Care" grant were due on May 31, 2011.

The Conspiracy

5. From in or around April 2011 through in or around March 2013, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendant ROBERT ROCHE and Craig McGuire, not charged herein, knowingly and intentionally did combine, conspire, confederate and agree together and with each other to violate the laws of the United States, to wit: theft concerning programs receiving Federal funds, in violation of Title 18, United States Code, Section 666(a)(1)(A).

Object of the Conspiracy

6. The object of the conspiracy was to enrich Defendant ROCHE and McGuire, by: (1) embezzling, stealing, obtaining by fraud and otherwise without authority knowingly converting to their personal use and intentionally misapplying, property that was valued at \$5,000.00 or more, and (2) was owned by, and was under the care, custody, and control of AIEC, an organization which received benefits in excess of \$10,000.00, during the Federal fiscal years 2012 (October 1, 2011, through September 30, 2012) and 2013 (October 1, 2012, through September 30, 2013) under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance.

Manner and Means

Among the manner and means by which ROCHE and McGuire carried out the conspiracy were the following:

7. On or about April 25, 2011, ROCHE, as Executive Director of AIEC, entered into an “Ongoing Grant Writing Agreement” with McGuire & Associates to “draft grant proposals on an ongoing basis on behalf of AIEC to be submitted to various public or private agencies offering grant funding for projects, . . .” The Ongoing Grant Writing Agreement provided that McGuire & Associates was not to receive any compensation unless a grant was awarded. Upon a grant being awarded, “AIEC agree[d] to enter into a separate Professional Services Agreement for evaluation or other professional services . . .” The Ongoing Grant Writing Agreement also gave McGuire & Associates authority to sign and submit grant applications on behalf of AIEC.

8. From in or around May 2011 through in or around October 2013, AIEC maintained several bank accounts at the Huntington National Bank to facilitate its business activity: an account ending in No. 3674 (“payroll account”); an account ending in No. 3629 where SAMHSA grants were deposited (“recipient account”); and, an account ending in No. 8246 (“operating account”).

9. On or about May 31, 2011, McGuire, as directed by ROCHE, submitted Form SF-424, an Application for Federal Assistance, on behalf of AIEC to receive a “Circle of Care” grant from SAMHSA which McGuire prepared. ROCHE and McGuire then knew AIEC’s application contained numerous false statements including: (1) AIEC had a Wellness Department that provided direct services to youth and their families, and a “Positive Paths” after school program serving 500 children, (2) certain individuals were purportedly employed by AIEC, (3) the description of AIEC’s building and physical amenities, and (4) T.J., an individual not charged herein, was the Project Coordinator.

10. In and around May 2011, ROCHE was identified to SAMHSA as AIEC’s Executive Director and Authorized Representative on the “Circles of Care” grant. The budget

the AIEC submitted for the “Circles of Care” grant did not include any funding for an Executive Director and Authorized Representative.

11. On or about September 1, 2011, SAMHSA awarded the “Circles of Care” grant to AIEC in the amount of approximately \$302,340.00 for the 2012 Federal fiscal year.

12. On or about October 24, 2011, SAMHSA wired approximately \$14,600.00 into the AIEC’s recipient account.

13. From on or about October 24, 2011, through on or about September 30, 2012, SAMHSA sent approximately 61 wire transfers to AIEC’s recipient account, totaling approximately \$301,888.00. AIEC then distributed approximately \$164,364.00 of these funds to its payroll account and approximately \$96,081.03 of these funds to its operating account. After a SAMHSA’s wire transfer posted in AIEC’s recipient account, ROCHE routinely and quickly transferred the funds to the payroll and operating accounts.

14. From on or about October 24, 2011, through on or about September 30, 2012, McGuire converted approximately \$60,400 to his personal use from the SAMHSA wire transfers referenced in paragraph 13 above.

15. From on or about October 24, 2011, through on or about September 30, 2012, ROCHE converted approximately \$47,257.49 to his personal use from the SAMHSA wire transfers referenced in paragraph 13 above.

16. On or about June 26, 2012, SAMHSA awarded the second year of the “Circles of Care” grant to AIEC in the amount of \$308,040.00 for the 2013 Federal fiscal year.

17. From on or about October 1, 2012, through on or about September 30, 2013, AIEC received partial funding for 2013 of approximately \$181,878.30. AIEC did not receive full funding as SAMHSA placed AIEC in a “high risk” status.

18. From on or about October 1, 2012, through on or about September 30, 2013, McGuire converted approximately \$46,206.00 to his personal use from SAMHSA’s funding described in paragraph 17 above.

19. From on or about October 1, 2012, through on or about September 30, 2013, ROCHE converted approximately \$29,840.06 to his personal use from SAMHSA's funding described in paragraph 17 above.

20. On multiple occasions, ROCHE caused AIEC to pay ROCHE as a Project Coordinator for the "Circles of Care," grant despite Roche not identified as Project Coordinator in the application for the "Circles of Care" grant.

21. In or around November 2011, after the "Circles of Care" grant was awarded, AIEC advised SAMHSA that ROCHE would serve as acting Project Coordinator.

22. On or about December 1, 2011, ROCHE submitted a revised budget to SAMHSA indicating that the position of Project Coordinator for the "Circles of Care" grant would be a half-time, rather than a full-time position.

23. In or around May 2012, AIEC confirmed that Roche was employed half-time as Project Coordinator, also sometimes referenced as Project Director, yet ROCHE continued to receive compensation as a full-time employee.

24. From in or around October 2011 through in or around March 2013, Defendant ROCHE and McGuire embezzled approximately \$183,703.55 from the SAMHSA grants.

Overt Acts

In furtherance of the conspiracy and to effect its unlawful objects, ROCHE and McGuire committed the following overt acts, among others, in the Northern District of Ohio, Eastern Division, and elsewhere:

25. On or about May 31, 2011, McGuire, under ROCHE's direction and review, submitted Form SF-424, an Application for Federal Assistance, on behalf of AIEC to receive a "Circle of Care" grant from SAMHSA, which McGuire prepared.

26. On or about October 26, 2011, ROCHE caused AIEC to issue check No. 2013 in the amount of approximately \$2,101.98 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

27. On or about November 3, 2011, ROCHE caused AIEC to issue check No. 1003 in the amount of approximately \$1,474.95 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

28. From on or about November 10, 2011, through on or about November 15, 2011, McGuire caused McGuire & Associates to enter into a Contract for Evaluation Services, specifically referencing the Circles of Care Grant, with AIEC "to provide evaluation services to provide an annual evaluation report that summarizes data collected and analyzed on outcomes for the duration of the grant-funded project." McGuire & Associates professional fees were set as 15% of the annual project budget ("15% contract").

29. From on or about November 10, 2011, through on or about November 15, 2011, ROCHE signed a form waiving any conflict of interest arising from the 15% contract with McGuire & Associates on behalf of AIEC and signed the Contract for Evaluation Services as Executive Director of AIEC.

30. On or about November 15, 2011, McGuire caused McGuire & Associates to enter into a Contract for Monitoring and Reporting Services, specifically referencing the Circles of Care Grant, with AIEC "to provide monitoring and reporting services for the duration of the grant-funded project." McGuire & Associates professional fees were set as 5% of the annual project budget ("5% contract").

31. On or about November 21, 2011, McGuire caused McGuire & Associates to present statements to AIEC and ROCHE requesting payment of \$22,650.00 for "Project Evaluation Services" regarding the "CoC Project" and requesting payment of \$7,550.00 for "CoC Monitoring and Reporting Services."

32. On or about November 28, 2011, ROCHE caused AIEC to issue check No. 2229 in the amount of approximately \$2,101.98 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

33. On or about December 1, 2011, ROCHE signed check Nos. 1040 and 1041 drawn on AIEC's operating account made payable to McGuire & Associates in the amounts of \$22,650.00 and \$7,550.00, respectively, in payment of McGuire & Associates' statements of November 21, 2011.

34. On or about December 9, 2011, ROCHE caused AIEC to issue check No. 2237 in the amount of approximately \$2,101.98 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

35. On or about December 22, 2011, ROCHE caused AIEC to issue check No. 2244 in the amount of approximately \$2,101.98 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

36. On or about December 22, 2011, McGuire caused McGuire & Associates to present statements to AIEC and ROCHE requesting payment of \$11,325.00 for "Project evaluation services" regarding the "CoC Project Year 1 payment 2 of 3 per contract" (Invoice No. 487) and requesting payment of \$3,775.00 for "Circles of Care Monitoring and Reporting" (Invoice No. 488).

37. On or about January 5, 2012, ROCHE caused AIEC to issue check No. 2253 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

38. On or about January 17, 2012, ROCHE signed check Nos. 1021 and 1022 drawn on AIEC's recipient account made payable to McGuire & Associates in the amounts of \$3,775.00 and \$11,325.00 respectively, check No. 1021 noting "invoice 488" and check No. 1022 noting "invoice 487" in payment of McGuire & Associates' statements of December 22, 2011.

39. On or about January 20, 2012, ROCHE caused AIEC to issue check No. 2260 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

40. On or about February 2, 2012, ROCHE caused AIEC to issue check No. 2268 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

41. On or about February 17, 2012, ROCHE caused AIEC to issue check No. 2275 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

42. On or about March 2, 2012, ROCHE caused AIEC to issue check No. 2282 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

43. On or about March 9, 2012, McGuire caused McGuire & Associates to present statements to AIEC and ROCHE requesting payment of \$10,000.00 for "CoC Process Evaluation."

44. On or about March 13, 2012, ROCHE signed check No. 1042 drawn on AIEC's recipient account made payable to McGuire & Associates in the amount of \$10,000.00 regarding McGuire & Associates' statement of March 9, 2012.

45. On or about March 16, 2012, ROCHE caused AIEC to issue check No. 2290 in the amount of approximately \$2,107.07 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

46. On or about March 30, 2012, ROCHE caused AIEC to issue check No. 2309 in the amount of approximately \$2,248.23 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

47. On or about April 13, 2012, ROCHE caused AIEC to issue check No. 2317 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for

serving as the Project Coordinator for the “Circle of Care” grant.

48. On or about April 27, 2012, ROCHE caused AIEC to issue check No. 2325 in the amount of approximately \$2,248.23 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the “Circle of Care” grant.

49. On or about May 11, 2012, ROCHE caused AIEC to issue check No. 2333 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the “Circle of Care” grant.

50. On or about May 24, 2012, ROCHE caused AIEC to issue check No. 2347 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the “Circle of Care” grant.

51. On or about June 1, 2012, ROCHE caused AIEC to issue check No. 2350 in the amount of approximately \$2,248.23 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the “Circle of Care” grant.

52. On or about June 20, 2012, ROCHE caused AIEC to issue check No. 2360 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the “Circle of Care” grant.

53. On or about June 20, 2012, McGuire caused McGuire & Associates to present statements to AIEC and ROCHE requesting payment of \$1,325.00 for “CoC project” and “Process evaluation” regarding the “Year 1 payment 3 of 3” (Invoice No. 505) and requesting payment of \$3,775.00 for “CoC Project” and “Monitoring and Reporting” for “Year 1 payment 3 of 3” (Invoice No. 506).

54. On or about July 26, 2012, ROCHE signed check No. 1096 drawn on AIEC’s operating account made payable to McGuire & Associates in the amount of \$5,100.00 representing the total amount billed from McGuire & Associates’ statements of June 20, 2012 noting “Inv 505 & 506”.

55. On or about July 2, 2012, ROCHE caused AIEC to issue check No. 2368 in the amount of approximately \$2,248.23 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

56. On or about July 17, 2012, ROCHE caused AIEC to issue check No. 2376 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

57. On or about August 2, 2012, ROCHE caused AIEC to issue check No. 20670680 in the amount of approximately \$2,248.22 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

58. On or about August 10, 2012, ROCHE caused AIEC to issue check No. 2392 in the amount of approximately \$2,648.06 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

59. On or about August 30, 2012, ROCHE caused AIEC to issue check No. 2402 in the amount of approximately \$2,648.05 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

60. On or about September 12, 2012, ROCHE caused AIEC to issue check No. 2410 in the amount of approximately \$2,648.06 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

61. On or about September 26, 2012, ROCHE caused AIEC to issue check No. 2418 in the amount of approximately \$2,648.05 and check No. 2419 in the amount of approximately \$1,426.04 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

62. On or about October 8, 2012, McGuire caused McGuire & Associates to present a statement to AIEC and ROCHE requesting payment of \$23,100.00 for "CoC Grant, Year 2 payment 1 of 3 per contract, project evaluation on ongoing consultation."

63. On or about October 11, 2012, ROCHE caused AIEC to issue check No. 2432 in the amount of approximately \$4,877.02 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

64. On or about October 16, 2012, ROCHE signed check No. 1121 drawn on AIEC's operating account made payable to McGuire & Associates in the amount of approximately \$23,100 representing the total amount billed from McGuire & Associates' statement (Invoice #538) of October 8, 2012 noting "COC Year 2 pmt 1 of 3".

65. On or about October 24, 2012, ROCHE caused AIEC to issue check No. 2441 in the amount of approximately \$1,330.09 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

66. On or about November 15, 2012, ROCHE caused AIEC to issue check No. 2449 in the amount of approximately \$1,330.09 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

67. On or about November 20, 2012, ROCHE caused AIEC to issue check No. 2462 in the amount of \$1,402.79 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

68. On or about December 5, 2012, ROCHE caused AIEC to issue check No. 2481 in the amount of approximately \$1,402.79 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

69. On or about December 21, 2012, ROCHE caused AIEC to issue check No. 2494 in the amount of approximately \$1,402.78 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

70. On or about January 4, 2013, ROCHE caused AIEC to issue check No. 2505 in the amount of approximately \$1,295.48 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

71. On or about January 17, 2013, ROCHE caused AIEC to issue check No. 2515 in the amount of approximately \$1,295.48 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

72. On or about January 28, 2013, ROCHE caused AIEC to issue check No. 1156 drawn on AIEC's operating account made payable to McGuire & Associates in the amount of approximately \$23,106.00 representing an apparent duplicate payment for the total amount billed from McGuire & Associates' statement (Invoice #538) of October 8, 2012 noting "COC Final Payment".

73. On or about February 1, 2013, ROCHE caused AIEC to issue check No. 2538 in the amount of approximately \$1,295.47 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

74. On or about February 13, 2013, ROCHE caused AIEC to issue check No. 2541 in the amount of approximately \$1,295.48 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

75. On or about February 28, 2013, ROCHE caused AIEC to issue check No. 2565 in the amount of approximately \$1,013.60 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

76. On or about March 14, 2013, ROCHE caused AIEC to issue check No. 2582 in the amount of approximately \$1,013.61 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

77. On or about March 27, 2013, ROCHE caused AIEC to issue check No. 2587 in the amount of approximately \$1,013.61 from its payroll account to ROCHE as compensation for serving as the Project Coordinator for the "Circle of Care" grant.

All in violation of Title 18, United States Code, Section 371.

The Grand Jury charges:

COUNT 2

(Theft Concerning Program Receiving Federal Funds, 18 U.S.C. § 666(a)(1)(A))

1. Paragraphs 1 through 3 of the General Allegations section of Count 1 are re-alleged and incorporated by reference as if fully set forth herein.

2. From on or about October 24, 2011, through on or about September 28, 2012, in the Northern District of Ohio, Eastern Division, Defendant ROBERT ROCHE, an agent of AIEC, an organization which received benefits in excess of \$10,000.00 during the Federal fiscal year 2012 (October 1, 2011, through September 30, 2012) under a Federal program involving a grant, contract, subsidy, and other form of Federal assistance, knowingly embezzled, stole, obtained by fraud and otherwise without authority knowingly converted to the use of any person other than the rightful owner and intentionally misapplied, property that: (1) was valued at \$5,000.00 or more, and (2) was owned by, and was under the care, custody, and control of AIEC, under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, to-wit: ROCHE converted to his use and the use of others, approximately \$47,257.49 from the AIEC.

All in violation of Title 18, United States Code, Sections 666(a)(1)(A) and 2.

The Grand Jury charges:

COUNT 3

(Theft Concerning Program Receiving Federal Funds, 18 U.S.C. § 666(a)(1)(A))

1. Paragraphs 1 through 3 of the General Allegations section of Count 1 are re-alleged and incorporated by reference as if fully set forth herein.

2. From on or about October 12, 2012, through on or about March 29, 2013, in the Northern District of Ohio, Eastern Division, Defendant ROBERT ROCHE, an agent of AIEC, an organization which received benefits in excess of \$10,000.00 during the Federal fiscal year 2013

(October 1, 2012, through September 30, 2013) under a Federal program involving a grant, contract, subsidy, and other form of Federal assistance, knowingly embezzled, stole, obtained by fraud and otherwise without authority knowingly converted to the use of any person other than the rightful owner and intentionally misapplied, property that: (1) was valued at \$5,000.00 or more, and (2) was owned by, and was under the care, custody, and control of AIEC, under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, to-wit: ROCHE converted to his use and the use of others, approximately \$29,840.06 from the AIEC.

All in violation of Title 18, United States Code, Sections 666(a)(1)(A) and 2.

A TRUE BILL.

Original document - Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.